

BEFORE THE
SHORELINES HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF A SHORELINE
SUBSTANTIAL DEVELOPMENT PERMIT
DENIED BY MASON COUNTY TO
STATE OF WASHINGTON,
DEPARTMENT OF FISHERIES,

STATE OF WASHINGTON,
DEPARTMENT OF FISHERIES,

Appellant,

v.

MASON COUNTY,

Respondent.

SHB No. 82-52

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the review of Mason County's denial of a shorelines substantial development permit requested by the State of Washington Department of Fisheries, was brought before the full membership of the Shorelines Hearings Board (Gayle Rothrock, Chairman, David Akana - presiding, Rodney M. Kerslake, Nancy R. Burnett, Richard A. O'Neal, and Lawrence J. Faulk) on February 23, 1983, in Lacey, Washington.

Appellant, State of Washington Department of Fisheries, appeared

1 by Dennis D. Reynolds, Assistant Attorney General. Although notice of
2 the hearing was given, Mason County did not appear either through
3 legal counsel, or by having a representative present at the hearing.

4 Having heard the testimony, having examined the exhibits,
5 considered the petition for review, and having heard the argument of
6 counsel and being fully advised, the Shorelines Hearings Board makes
7 the following:

8 FINDINGS OF FACT

9 I

10 This matter arises in Mason County. The State of Washington
11 Department of Fisheries ("Fisheries") owns and manages within Mason
12 County a fish hatchery known as the George Adams Hatchery. The George
13 Adams Hatchery is located six miles northwest of Shelton at the
14 intersection of U.S. 101 and the Skokomish Valley Road.

15 On September 1, 1982, Fisheries filed an application for a
16 shorelines management substantial development permit with Mason County
17 pursuant to the provisions of the Shorelines Management Act, Chapter
18 90.58 RCW. Fisheries proposes to place a structural fill adjacent to
19 the present hatchery facility. The fill would increase the usable
20 space of the hatchery, allowing future expansion of fish production.

21 II

22 The Mason County Board of Commissioners considered Fisheries'
23 request for substantial development permit November 1, 1982 and
24 November 8, 1982. In correspondence dated November 10, 1982, Mason
25 County officially informed Fisheries of its denial of the requested
26 permit. In considering the denial, one member of the Board of County
27

Commissioners abstained from voting, one member voted for approval of the requested permit, and one member voted to conditionally approve Fisheries' request. It was determined by the Mason County Prosecutor that the tie vote amounted to a technical denial of the permit. It is from this technical denial that appellant requests review.

III

The proposed fill would place 26,000 cubic yards structural fill at the edge of or slightly within the Skokomish River flood plain and wetlands of Purdy Creek. The gravel fill would cover 1.4 acres, would vary in width from 180 feet to 250 feet, and would be 300 feet long and 10 feet deep. The increased ground area resulting from the fill would provide space for future expansion of hatchery facilities. It is intended at this time to use the space to support fish-rearing troughs and a sheet metal warehouse for raising chum eggs. The proposed fill would facilitate a use which is dependent on the shoreline area. The cost of the substantial development is \$392,000.

IV

The fill site is presently swampy alder bottom which occasionally floods from Purdy Creek flowing into the Skokomish River. The site is bordered by the Skokomish Valley county road on the south and a hill which rises from the road. One private residence and a restaurant exist northeast of the hatchery area. Valley farm land exists north of the wetland area. The fill site is a portion of the wetland area which consists of alder, maple, willow and marsh plants supporting other wetland flora and fauna. Although some destruction of wetland

1 habitat will occur as a result of the fill, the proposed encroachment
2 is not significant, as the project is located adjacent to an already
3 disturbed area (the hatchery). The wetland area is only a small part
4 of the much larger wetland area associated with the Skokomish River
5 and Purdy Creek.

6 V

7 The proposed project will not have a significant impact on the
8 flood plain and associated wetlands of the Skokomish River. The fill
9 area is at the edge of the existing flood plain. The fill area would
10 probably be impacted by a one-hundred year flood. Such impact, if it
11 occurred, would not be major.

12 The fill area is presently a stagnate, backwater area, during
13 times of flood. It is not a channel area. During times of high
14 water, water could back up to the proposed area, sit several days, and
15 then flow away. The proposed project would tie in with the existing
16 topography of the adjacent hatchery, which already sits in the flood
17 plain.

18 The proposed fill area would amount to an encroachment of less
19 than 0.087% of the approximately 1600 acres flood plain situated west
20 of SR 101. It is not expected that the fill would raise flood waters
21 on the surrounding lands.

22 VI

23 The proposed fill will not cause significant damage to existing
24 ecological values nor natural resources, nor would it alter local
25 currents which occur. The proposed fill will not constitute a hazard

1 to adjacent life, property, ecological values, or natural resources.
2 The proposed fill would be constructed to prevent any significant
3 erosion. Fill materials will be of high quality and will not cause
4 problems of water quality. Prior to placing the fill, Fisheries is
5 committed to place a mat upon the ground. This mat will prevent any
6 fines contained in the fill material from leaching.

7 The proposed fill will have insignificant impacts on total surface
8 water reduction; it would not restrict navigation, impede water flow
9 and circulation, nor reduce water quality or significantly destroy any
10 existing habitat.

11 VII

12 Expansion of the George Adams Hatchery site will allow for future
13 fish propagation, utilizing an already established hatchery facility.
14 Increased fishery production at the George Adams Hatchery will benefit
15 the public and is of statewide interest and importance. Increased
16 hatchery production will also result in long term benefits to the
17 state.

18 It is estimated that once the hatchery expansion is completed,
19 structures built on the fill area will allow ten million chum salmon
20 fry to be released into Hood Canal. It is further estimated that
21 release of this number of salmon fry will contribute 42,000 adults to
22 the commercial fisheries of the State of Washington. Utilizing
23 average weights and prices per pound from past commercial chum
24 fisheries, it is estimated the increased hatchery production will add
25 a minimum value of \$416,598 to the commercial catch per four-year
cycle.

VII

The proposed fill is adjacent to an established flood control zone established for the Skokomish River Valley flood plain. Although the structure is outside the State flood control zone, nonetheless Fisheries applied for a permit from the State of Washington Department of Ecology for approval to construct within the flood control zone. After determining that the proposed structure would not significantly displace any flood waters, that agency issued a permit approving construction of the fill. (Permit No. 2-2124, issued August 12, 1982).

VII

Any Conclusion of Law which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings the Board enters the following:

CONCLUSIONS OF LAW

I

The Fisheries' application is for a shorelines substantial development permit. As such it must be consistent with the provisions of the Shorelines Management Act, Chapter 90.58 RCW and Mason County Shoreline Master Program.

II

The proposed project constitutes an activity of statewide interest and can result in long term over short term benefit. The proposed project is consistent with those policies of the Shoreline Management Act, Chapter 90.38 RCW, which require proposed projects to minimize insofar as practicable, any resultant damage to the ecology and

1 environment of the shoreline area and any interference with the
2 public's use of the water. Likewise, the proposed project will allow
3 expansion of the fish hatchery, a purpose unique to use of the water
4 area, and as such is a preferred use. RCW 90.58.020.

5 III

6 The proposed expansion of the George Adams Hatchery is consistent
7 with the Mason County Shoreline Plan, particularly those sections
8 which require the fostering of "reasonable and appropriate uses" of
9 the shorelines, 7.04.22, which requires that "interests of all the
10 people should be paramount in the management of shorelines of
11 statewide significance," 7.04.023, which requires those uses which
12 "recognize and protect the statewide interest over local interest"
13 shall be favored in determining allowable uses of the state
14 shorelines. 7.04.023(1)(3). Additionally, the project is consistent
15 with those portions of the Mason County Master Program which requires
16 "the overall best interests of the state and people generally" to be
17 considered in determining approved uses of the state's shorelines and
18 which favors projects that are "unique to or dependent upon use of the
19 state's shorelines," 7.04.024.

20 IV

21 The proposed project is consistent with specific guidelines
22 contained in the Mason County Master Program, Section 7.16.150, for
23 landfills in a rural area, and the proposed project, in particular,
24 has been designed to minimize insofar as practicable, any resultant
25 damage to the ecology and environment of the shoreline area as further
26 required by the Mason County Master Program, 7.04.025.

V

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.

From these Conclusions the Board enters this

ORDER

The action of Mason County is reversed, and this matter is remanded to Mason County for issuance of a shoreline substantial development permit. The description and construction of the development shall be considered conditions of such permit.

DONE this 3rd day of March, 1983.

SHORELINES HEARINGS BOARD

David Akana
DAVID AKANA, Lawyer Member

Gayle Rothrock
GAYLE ROTHROCK, Chairman

See Concurring Opinion
LAWRENCE S. FAULK, Member

Nancy R. Burnett
NANCY R. BURNETT, Member

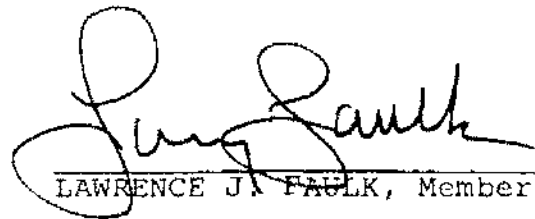
Richard A. O'Neal
RICHARD A. O'NEAL, Member

Rodney M. Kerslake
RODNEY M. KERSLAKE, Member

1 FAULK, Member, concurring:

2 I concur with the decision of the majority of the Board but would
3 add one further conclusion of law to read as follows:

4 The Shorelines Hearings Board believes that
5 the Fisheries Department should have discussed with
6 Mason County Board of Commissioners the possibility
7 of removing gravel from the Skokomish River as a flood
8 control measure and at the same time use it as the
9 source of fill.

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LAWRENCE J. FAULK, Member

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From these Conclusions the Board enters this

ORDER

The action of Mason County is reversed, and this matter is remanded to Mason County for issuance of a shoreline substantial development permit. The description and construction of the development shall be considered conditions of such permit.

DONE this 36th day of March, 1983.

SHORELINES HEARINGS BOARD

David Akana
DAVID AKANA, Lawyer Member

Gayle Rothrock
GAYLE ROTHROCK, Chairman

See Concurring Opinion
LAWRENCE S. FAULK, Member

Nancy R. Burnett
NANCY R. BURNETT, Member

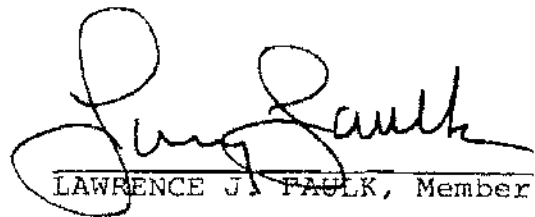
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RICHARD A. O'NEAL, Member

Rodney M. Kerslake
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1 FAULK, Member, concurring:

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LAWRENCE J. FAULK, Member